

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KNOWLINGTON O. BURBAGE, )  
                               )  
                               )  
Plaintiff,                 )  
                               )  
                               )  
v.                         )              C.A. No. 04-133-SLR  
                               )  
                               )  
CITY OF WILMINGTON, MAYOR )  
JAMES BAKER, POLICE DEPARTMENT )  
OF WILMINGTON, DELAWARE,     )  
CHIEF MICHAEL SZCZERBA,     )  
UNKNOWN SERGEANT,            )  
OFFICER LEARY, OFFICER MYERS, )  
                               )  
Defendants.                 )

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR DISCOVERY AND  
PRODUCTION OF TAPES AND ANY AND ALL EVIDENCE**

Defendants, by and through their undersigned counsel, respond as follows to Plaintiffs' Request for Discovery and Production of Tapes and any and all Evidence:

1. Plaintiff respectfully request that the Court Order the Custodian of evidence, being State, City, County of Delaware and the States Attorneys Office, to make available and send to plaintiff by way of via 1<sup>st</sup> class mail Certified-Return Receipt any and all taped recordings, police reports, affidavits, and documents of all officers that was part of and envolved with the plaintiff on the day of arrest and assault. That is in the possession of the State, and/or States Attorneys Office, and Custodian of Evidence regarding this case.

RESPONSE: Please see attached police report. Affidavits of the named Defendants and witnesses will be attached to Defendants' Motion for Summary Judgment which will be filed on or before April 15, 2005. At this time, no affidavits have been written.

---

/s/ Rosamaria Tassone, ( I.D. #3546)

City of Wilmington Law Department  
Louis L. Redding City/County Building  
800 French Street, 9th Floor  
Wilmington, Delaware 19801  
(302) 576-2175  
Attorney for Defendants City of Wilmington,  
Mayor James Baker, Police Department of  
Wilmington, Chief Michael Szczerba and  
Officer Joseph Leary

DATED: March 16, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

KNOWLINGTON O. BURBAGE, )  
                                )  
                                )  
Plaintiff,                 )  
                                )  
                                )  
v.                            )              C.A. No. 04-133-SLR  
                                )  
                                )  
CITY OF WILMINGTON, MAYOR )  
JAMES BAKER, POLICE DEPARTMENT )  
OF WILMINGTON, DELAWARE,     )  
CHIEF MICHAEL SZCZERBA,     )  
UNKNOWN SERGEANT,            )  
OFFICER LEARY, OFFICER MYERS, )  
                                )  
Defendants.                 )

**CERTIFICATE OF SERVICE**

I, Rosamaria Tassone, Esq., hereby certify that on this 16<sup>th</sup> day of March, 2005 I electronically filed the Defendants' Response to Plaintiffs' Request for Discovery and Production of Tapes and any and all Evidence with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the individual(s) noted below. These documents are available for viewing and downloading from CM/ECF. I mailed a hard copy by United States Postal Service to the following:

Knowlington O. Burbage  
Reg. #21524-051  
F.C.I. Elkton  
P.O. Box 10  
Lisbon, OH 44415

/s/ Rosamaria Tassone, ( I.D. #3546)  
Assistant City Solicitor  
City of Wilmington Law Department  
Louis L. Redding City/County Building  
800 French Street, 9th Floor  
Wilmington, Delaware 19801